



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312909-22

#### Development

Construction of part two storey 3 bedroom house, car garage, removal of existing vehicular entrance, replacement with new railing to match existing, new vehicular entrance, gates, stone walls and all associated site works

#### Location

Crevamor, 13, Marlborough Road, Glenageary, Co Dublin, A96V9D6

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D21A/1057

#### Applicant(s)

Brian O Connell.

#### Type of Application

Permission.

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party

#### Appellant(s)

Brian O Connell.

#### Observer(s)

Peter Wood.

**Date of Site Inspection**

08<sup>th</sup> of March 2023.

**Inspector**

Karen Hamilton

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## **1.0 Site Location and Description**

- 1.1. The subject site is located at No. 13 Marlborough Road, Glenageary, Co. Dublin. Marlborough Road is situated to the south-east of Dun Laoghaire and to the west of Dalkey and is a residential street characterised by a mix of large detached and semi-detached properties sited on generous plots.
- 1.2. Glenageary Dart Station is located at the junction of Marlborough Road and Station Road. The subject site is located along the eastern side of Marlborough Road and comprises a large detached two storey dwelling with a private entrance directly off Marlborough Street. The entrance is located in the centre of the front boundary with parking at the front of the existing house. There is a significant amount of large mature trees on the site and along the boundaries.
- 1.3. The site is located within an Architectural Conservation Area.

## **2.0 Proposed Development**

- 2.1. The development will consist of:
  1. the construction of a part two storey 3-bedroom house of 188.86m<sup>2</sup> in the rear garden, to a height of 7.02m, a car garage of 26.49 sqm and entrance gates,
  2. the removal of existing vehicular entrance, replacement with new railing to match existing.
  3. the construction of a new vehicular entrance, gates, stone walls and all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Decision to refuse permission for the following reason.

The front portion of the subject site at 13 Marlborough Road is located within the Marlborough Road candidate Architectural Conservation Area (c ACA) in the Dún Laoghaire- Rathdown County Development Plan 2016-2022. The PROPOSED development to the rear of the site, by reason of its size, and

siting in such close proximity to the site boundaries and the proposed removal of the trees, particularly along the site boundaries and roadside frontage would have a negative impact on the visual amenity of the area and the character of the streetscape. The proposed development would not, therefore, preserve or enhance the established character of the streetscape, would significantly detract from the architectural character and significance of the Marlborough Road candidate ACA, and would thereby be contrary to Policy AR17: Development within an ACA of the Dún Laoghaire- Rathdown County Development Plan 2016-2022.

Furthermore, the proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, by reason of loss of existing planting and separation distances between existing and proposed buildings and heights, thereby significantly detracting from the streetscape and character of the area. The proposed development would not, therefore, be in accordance with Section 8.2.3.4- Additional Accommodation in Existing Built-up areas, (v) Backland Development and (vii) Infill, of the current County Development Plan 2016-2022. In addition, the proposed development would set an undesirable precedent for similar type of development in the area. The proposed development would, therefore, be contrary to the provisions of Dún Laoghaire- Rathdown County Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to refuse permission and is summarised below:

- The principle of development is acceptable.
- There is a previous refusal for a similar development on the site and the changes are negligible.
- The proposal has not overcome the previous refusal on the site.
- The residential standards and open space requirements are acceptable.

- The separation distances and building height and form does not accord with the guidance in Section 8.2.3.4 (vi) of the development plan.
- The site is located within the candidate ACA Marlborough Road.
- The plans relating to the tree protection plans are unclear and includes ornamental garden planting which is not appropriate.
- The design and layout of the dwelling, in combination with the tree removal is not in keeping with the character of the area.

### 3.2.2. Other Technical Reports

Transport Planning Section: No objection subject to conditions

Drainage Department: No objection subject to conditions

Conservation Officer: Recommendation for refusal having regard to the previous refusal on the site, which is considered relevant and the impact of the proposal on the established character of the ACA.

### 3.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

### 3.4. Third Party Observations

One third party submission received from a resident of the adjoining property, also received as an observation to the appeal. The submission is summarised as follows:

- The proposal is not in keeping with the requirements for the ACA (as proposed in the draft plan),
- The relocated driveway will remove a significant number of trees and shrubbery and affect the streetscape,
- The gravel driveway will result in excessive noise disturbance,
- The removal of trees along the public street,
- The height of the PROPOSED dwelling,
- The design and elevation of the new garage,

- The precedence for houses in the rear of properties and the impact on the value of the dwellings.

## 4.0 Planning History

### 4.1.1. On the site

#### **Reg Ref No D20A/0913**

Permission refused for a similar development for the same reasons as the current proposal.

#### **Reg Ref D05A/0100**

Permission granted for the demolition of a side garage and the construction of a single storey apartment.

Condition No 6 required the apartment to be used as ancillary to the main dwelling.

### 4.1.2. In the vicinity of the site

#### **PL06D.248128 (Reg Ref D16A/0899)**

Permission refused on the adjoining site (No. 12 Marlborough Street) for the demolition of a two-storey dwelling and the construction of a two-storey dwelling including the widening of front gates from 2.7m to 3.25m for reasons of the impact of the proposal on the special character of the streetscape and cACA having regard to the streetscape.

#### **Reg Ref D18A/0324**

Permission granted on appeal to the Board for the relocation of a vehicular entrance at 23 Marlborough Road.

#### **Reg Ref D15A/0139**

Permission granted on appeal for subdivision of an existing two storey dwelling to 2 no dwellings and associated works.

#### **Reg Ref D14A/00779/E**

Permission granted on appeal to ABP for a single storey house with access from Beeches Park at 16 Marlborough Road



## 5.0 Policy Context

### 5.1. Dún Laoghaire- Rathdown County Development Plan 2022-2028

#### Zoning

The site is zoned for residential use where it is an objective “To provide residential development and improve residential amenity while protecting the existing amenities”

#### Architectural Conservation Area (ACA)

Policy Objective HER13: Architectural Conservation Areas

It is a Policy Objective to:

- i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). Please refer to Appendix 4 for a full list of ACAs.
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
- iii. Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.
- iv. Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style.
- v. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.
- vi. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving, and street furniture.

Appendix 4: Table 4.2 ACA Marlborough Road, Glenageary.

## **5.2. Natural Heritage Designations**

There are no European sites within the vicinity of the site.

## **5.3. EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are submitted from an agent on behalf of the applicant in relation to the PA reason for refusal and is summarised below:

#### **6.1.1. Principle of Infill Development**

- The proposed development addresses the previous reason for refusal on the site (D20A/0913) and the proposal is in keeping with the cACA.
- The residential zoning on the site allows for infill/back land development.

#### **6.1.2. Standards of Accommodation/ open spaces**

- The proposal includes Velux windows along the northern elevation and will not impose on privacy or residential amenity of No 14 Marlborough Road
- The site can accommodate the additional dwelling due to the large plot size.
- The dwelling is well set back from the existing dwelling.
- The proposal is in keeping with the guidance for backland and infill in the development plan.

#### 6.1.3. Sustainable Residential development

- Backland development has become more popular with the demand for housing.
- It is the policy of the development plan to improve housing stock.
- Infill is supported by the NPF and the RSES.
- The national guidance for sustainable residential development promotes the use of infill sites.

#### 6.1.4. Impact on the c ACA

- The proposed development is designed to be sub-ordinate to the main dwelling and is compliant with the ACA guidelines.
- The removed railing along the front boundary will be replaced with a new railing to match the existing.
- The new access is located to minimise any impact.
- The contextual elevations illustrate the impact on the surrounding area.
- Only the front of the site is within the c ACA.

#### 6.1.5. Removal of trees

- A tree protection plan was submitted with the application.
- The trees to be removed from the site are the lowest quality category and unsuitable for retention.
- New planting will take place to allow further screening against the adjoining site.

#### 6.1.6. Precedent for similar development

- Reg Ref DA14A/0779 was refused by the PA and granted on appeal 244544 at No 16 Marlborough Road, for a dwelling which was also in the c ACA.
- Reg Ref D17A/1125 permission as granted for a part two storey, part single storey dwelling at No 7 Marlborough Road.
- Reg Ref D16A/0605 permission granted along Adelaide Road, also a c ACA for the construction of a new 2 storey 4/5-bedroom family house.

- Reg Ref D15A/0139 permission granted for the subdivision of an existing two storey dwelling to provide 2 no dwellings.
- Reg Ref D18A/0324 permission overturned by the Board (301942) for the relocation of a vehicular entrance along Marlborough Road.
- Reg Ref D13A/0427 permission granted for a new 2 storey dwelling within a c ACA in Silchester Road

#### 6.1.7. Previous refusal on the site

- The previous proposal involved a two-storey dwelling.
- There is a reduction in floor space from c. 250m<sup>2</sup> to c. 180m<sup>2</sup>
- There is a reduction in the visual impact and less visually intrusive

#### 6.2. **Applicant Response**

The applicant is the appellant.

#### 6.3. **Planning Authority Response**

No response received.

#### 6.4. **Observations**

One observation was received from the occupants of the property to the south of the site (No. 12 Marlborough Road) in relation to the impact of the proposed location for the new entrance and the new dwelling. The issues raised are summarised below:

- The county development plan adopted on the 21<sup>st</sup> of April includes the entire site within the ACA therefore all policies relating to the ACA apply to the proposal.
- Policy AR17 of the county development plan states that all proposals should preserve the established character of the area.
- The residential zoning requires development to improve the residential amenity.

- The size and scale of the house should be measured in relation to the adjoining properties.
- The dwelling permitted at 16 Marlborough Road is single storey only and is accessed from Beeches Park to the rear. This is unlike the proposal at No 13 Marlborough Road.
- The details of the proposed garage have not been fully included in the proposal (plans and particulars). The garage will be in direct line of site from our property.
- The new access will run along the side of No 12, includes a gravel finish and will lead to noise disturbance.
- The majority of the trees removed along the boundary for the new drive will remove the existing privacy. This is against Section 8.2.3.4 of the development plan which requires boundary treatments to be retained where possible.
- There is no indication of the specific planting for the replacement trees.
- The removal of the trees will impact the sylvan character of the area.
- The planners report notes the information is not clear with regards the removal of trees.
- One of the trees to be removed is a very mature native ash.
- The proposal is not in keeping with Policy RES4 which requires densification to respect the character of the existing residential properties.

## 7.0 **Assessment**

The main issues raised in the appeal include:

- Principle of Infill/ Back land development
- Impact on the Built Heritage
- Impact on the Residential Amenity
- Appropriate Assessment

## 7.1. Principle of Infill/ Back land development

- 7.1.1. The site contains a large, detached dwelling on a generous plot located on lands zoned for residential development where it is an objective “*To provide residential development and improve residential amenity while protecting the existing residential amenities*”. The proposal includes the relocation of an existing vehicular entrance to accommodate access for the existing detached dwelling and a new dwelling within the rear garden of No. 13 Marlborough Road. The PA refused permission for the proposal having regard to the impact on the candidate Architectural Conservation Area (cACA) with supporting text referring to non-compliance with the guidance in the development plan for back land development.
- 7.1.2. The grounds of appeal note the principle of back land development is acceptable at this location. It is argued that this proposal and the inclusion of an additional dwelling within this large site is necessary to support the policies of the national, regional, and local planning policy for the efficient use of lands. The principle of backland/ infill was not raised as an issue of concern by the PA rather the impact on the surrounding area was considered to have a negative impact, therefore not complying with the guidance for backland.
- 7.1.3. I note Section 12.3.7.7 of the development plan (2022-2028) provides guidance for appropriate infill development in accordance with Policy Objective PHP19: Existing housing stock infill. Where infill is proposed the physical character of the areas shall be retained (i.e., wall, gateways, trees etc) and there is a need for compliance with other guidance for Architectural Conservation Area ACA (Policy Objective HER13 and HER14) is considered relevant, as further discussed below.
- 7.1.4. The subject site is located within a designated ACA (Marlborough Road). The guidance for development in ACAs is more onerous than general infill sites due to the need to protect and enhance the special character of the area. In this regard whilst I note the principle of infill within residential zoned areas is acceptable in general, for sites within ACAs the principle of infill is subject to compliance with specific policy guidance in the national policy<sup>1</sup> and those local policy objectives for development in ACAs, further discussed below.

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<sup>1</sup> [PART I - PLANNING \(buildingsofireland.ie\)](https://www.buildingsofireland.ie/)

## **7.2. Impact on the Built Heritage**

- 7.2.1. The site is in the Marlborough Road ACA as designated in the current development plan (2022-2028). At the time of the determination of the planning application the development plan in place was the Dún Laoghaire- Rathdown County Development Plan 2016-2022 and the front of the site was within a candidate Architectural Conservation Area (c ACA). The entire site is now located within a designated ACA.
- 7.2.2. The reason for refusal relates to the impact of the proposal on the character and setting of the c ACA by reason of the size, siting, proximity to the boundaries of the site and the removal of the trees.
- 7.2.3. The grounds of appeal consider the proposed design is appropriate at this location and the contextual illustrations indicate that there will be no negative visual impact from the proposed dwelling. The applicant refers to the previous refusal on the site (Reg Ref D20A/0913) and the redesign of the dwelling to overcome previous concerns by the PA.
- 7.2.4. The observer, the resident to the south of the site, considers the relocation of the entrance and removal of trees will have a negative impact on the character of the ACA. Reference is made to the adopted development plan and the inclusion of the entire site within the designated ACA.
- 7.2.5. Chapter 6 of the national guidance for architectural heritage provides guidance for proposals which impact protected structures and ACAs. In relation to infill developments, it is regarded that infilling of gardens should be discouraged as open spaces function in the natural illumination and ventilation of densely developed urban area. The impact on the character of the ACA should not be detrimentally affected.
- 7.2.6. The Marlborough Road ACA appraisal accompanied the county development plan 2022-2028 <sup>2</sup>. This ACA is of special architectural interest because of the high quality of buildings and the high degree of survival of original character of the individual buildings. Positive elements of ACA include the windows of the buildings, the gates and piers and private planting and street trees. Those elements which are considered to have a negative impact include the condition of kerbstones, scale of some extensions and the inappropriate widening of some entrances.

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<sup>2</sup> [Architectural Conservation Areas | Dún Laoghaire-Rathdown County Council \(dlrcoco.ie\)](https://dlrcoco.ie/)

- 7.2.7. Policy Objective HER 13 of the current Dún Laoghaire- Rathdown County Development Plan 2022-2028 reiterates the national guidance for new development in ACAs whereas a high quality, sensitive design which is sympathetic to the area with features such as landscaping, street furniture, piers etc to be retained. I note Policy AR12 of the previous development plan (2016-2022) which was in place at the time of the PA decision includes a nearly identical policy relating to guidance for development in ACAs. Whilst the front of the site was within a c ACA in that plan, I note those alterations along the front of the site, including the removal of the street tree and c.8 other mature trees would have had regard to a similar planning policy.
- 7.2.8. I note the established character of those plots along Marlborough Lane are one of large, detached dwellings within generous plots with mature trees and hedging. The appraisal for the ACA, detailed above, highlights these characteristics as features of interest and I have concerns that the removal of the entire rear garden of the existing dwelling, construction of a new shared entrance at a new location, which requires the substantial removal of mature trees would have a negative impact on the special characteristics of the ACA.
- 7.2.9. I note the extensive tree removal necessary to accommodate the relocation of the entrance and provide access to the rear for the new dwelling and I consider these alterations will significantly alter the character and streetscape to the front of the site and the surrounding area. The plans illustrate a replacement tree to the front of the site, along the public road although no details in relation to viability of the relocation has been submitted. Section 6.0 of the tree report states there is a need for an agreement for these works. In addition, I note no detailed plans and particulars of alterations to the existing iron gates, railing and mature hedging along the front boundary of the site.
- 7.2.10. The design and layout of the proposed dwelling is not, in my opinion, of a high architectural quality. The dwelling is set to the rear, is two storeys in part (i.e., the central area to the rear of No 13 Marlborough House) and most of the window's face into the courtyard area to the south/ southeast of the dwelling). Although I note the L shaped design and stepped height appears to have been included to fit the rear garden, I do not consider the proposed dwelling contains any features of interest which reflect the location within a designated ACA.



- 7.2.11. In relation to the visual impact on the streetscape, I have concerns with the information contained in the plans and particulars. The plans illustrate a range of large mature trees in the front of the site, directly in front of the existing garage. This does not adequately reflect the situation on site. In addition, the photographic survey is orientated from the south of the site, rather than the north and front of the site which are the areas which the proposed dwelling would be most visible from the public area. Upon site inspection I noted two mature trees which were not to the scale illustrated in the visual assessments.
- 7.2.12. Having regard to the national guidance for development in ACA, which restricts the infilling of gardens in ACAs, the information contained in the ACA appraisal and those features listed as special characteristics I do not consider the proposal represents an appropriate form of development in a designated ACA. In this regard, I am concerned the proposed alterations to the access, removal of those mature trees on the site and along the public road and the proposed design of the infill dwelling would have a negative impact on the character and setting of the existing dwelling and the surrounding area. Therefore, I do not consider the proposal complies with the national guidance for proposed development in ACAs or the policies and objectives of the development plan, in particular Policy HER13, which require any proposals to respect the features of special interest for which the ACA has been designated and have regard to the architectural character of the overall area.

### **7.3. Impact of the Residential Amenity.**

- 7.3.1. The additional commentary with the PA reason for refusal includes reference to the impact of the proposal on the residential amenity of those occupants in the vicinity of the site. Having regard to the negative impact on the residential amenity and streetscape of the ACA the PA considered the proposal represented an inappropriate form of back land development and was not in keeping with the ACA. I have addressed this overall impact on the ACA in detail above.
- 7.3.2. The resident of the dwelling to the south of the site, No. 12 Marlborough Road, submitted an observation which, *inter alia*, considered the proposal would have a negative impact on their amenity. The noise generation from the stones was raised as a concern.

- 7.3.3. As stated above the L shaped design of the proposed dwelling includes windows orientated into the courtyard, private open space. Having regard to the height of the dwelling and location in the rear of the garden, I do not consider there would be any negative impacts on the adjoining residential amenities by way of overlooking, overshadowing, or overbearing.
- 7.3.4. In relation to the noise from the stones on the proposed driveway, it is my opinion that that the generation of c. 2 cars for an infill dwelling would not generate significant noise which would cause a negative impact on the surrounding area.

#### **7.4. Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

### **8.0 Recommendation**

- 8.1. I recommend that planning permission should be REFUSED for the reasons and considerations set out below.

### **9.0 Reasons and Considerations**

Having regard to the existing character and the prevailing pattern of development, the site location within an Architectural Conservation Area, it is considered that the proposed development, by reason of its overall design and layout, and relocation of the existing entrance, which requires the removal of a significant number of trees on the site and in the public realm, would be out of scale with its surroundings, would seriously detract from the architectural character and setting along Marlborough Road and of the streetscape generally. The proposed development would, therefore, materially, and adversely affect the character of the Marlborough Road Architectural Conservation Area, would be contrary to Policy Objective HER13 of the Dún Laoghaire- Rathdown County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

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Karen Hamilton  
Senior Planning Inspector

09<sup>th</sup> of March 2023